

HOUSE BILL 744

E2, E4, E1

11r0740

By: **Delegates McDonough, Boteler, Frank, Kach, Kipke, Krebs, McComas, and Minnick**

Introduced and read first time: February 10, 2011

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Citizens Rights Act**

3 FOR the purpose of requiring a managing official of a correctional facility or the
4 managing official's designee to require an individual committed to the
5 correctional facility to provide information as to the immigration status of the
6 individual; requiring a managing official of a correctional facility or the
7 managing official's designee to send an immigration alien query to the Law
8 Enforcement Support Center for information relating to the immigration status
9 of individuals committed to the correctional facility; requiring the managing
10 official of a correctional facility to report the immigration status of certain
11 individuals to the Central Repository, the Division of Correction, and the
12 Division of Parole and Probation; requiring the divisions to maintain in their
13 offender management systems certain information regarding certain
14 individuals; requiring certain State agencies to assist the United States
15 Immigration and Customs Enforcement Agency with information leading to the
16 deportation of certain individuals; requiring the Central Repository to record
17 certain information in the criminal history record of certain individuals;
18 requiring the Central Repository to report certain information to the Law
19 Enforcement Support Center; prohibiting a person who is in violation of certain
20 federal law from failing to complete certain registration documents or carry at
21 all times certain registration documents; establishing penalties; providing a
22 person convicted and sentenced for failing to complete or carry certain
23 documents is not eligible for suspension of sentence, probation before judgment,
24 pardon, or release from confinement until the sentence imposed by the court is
25 served; requiring the person to pay the costs of confinement; prohibiting a
26 person who does not have lawful presence in the United States from knowingly
27 applying for work, soliciting work in a public place, or being an employee or
28 independent contractor; authorizing certain State law enforcement officers
29 authorized by the federal government to verify a certain person's immigration
30 status; prohibiting a law enforcement officer from considering certain attributes

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 of a detained individual in making a certain determination, except to the extent
2 authorized by the United States Constitution and the Maryland Constitution;
3 establishing the admissibility of certain immigration records in court under
4 certain circumstances; providing an exception from certain provisions of law for
5 persons who maintain authorization from the federal government to remain in
6 the United States; requiring a police officer who encounters and detains in the
7 normal course of the officer's duties an individual who the police officer
8 determines is an undocumented alien to inform the United States Immigration
9 and Customs Enforcement Agency of the United States Department of
10 Homeland Security of the detention as soon as possible after the police officer
11 has detained the undocumented alien; providing that this Act does not require
12 that a police officer search for an individual for the sole purpose of detaining
13 undocumented aliens; prohibiting a police officer from considering certain
14 attributes of a detained individual in making a certain determination, except to
15 the extent authorized by the United States Constitution and the Maryland
16 Constitution; altering certain warrantless arrest authority of a police officer by
17 authorizing the warrantless arrest of a person who commits a public felony or
18 misdemeanor that makes the person removable from the United States;
19 prohibiting a District Court commissioner from authorizing the pretrial release
20 of a defendant who cannot provide documentation acceptable to the Department
21 of Public Safety and Correctional Services certifying that the individual is
22 lawfully present in the United States in accordance with federal law; requiring
23 each law enforcement agency in the State to enter into a certain memorandum
24 of understanding to enforce federal immigration law; requiring each law
25 enforcement agency in the State to provide certain training to certain law
26 enforcement officers; authorizing a law enforcement agency to transport a
27 certain alien who is in the agency's custody and for whom the agency has
28 received verification the alien is unlawfully present in the United States to a
29 federal facility in the State or to a point of transfer into federal custody;
30 requiring that, under certain circumstances, a law enforcement agency obtain
31 authorization from the court before transporting an alien to federal custody;
32 requiring local governments to comply fully with and support federal
33 immigration law; prohibiting local governments from restricting their officials,
34 personnel, or agents from requesting, obtaining, sending, receiving, or
35 maintaining certain immigration information; requiring local governments to
36 implement certain requirements and obligations in a certain manner; providing
37 that a registered voter under the laws of the State may file a complaint alleging
38 certain actions against certain officers and employees of the State or of a local
39 government for declaratory judgment and injunctive relief; specifying that a
40 person has standing to file a certain action against certain officers and
41 employees under certain circumstances; authorizing a court to direct certain
42 officers and employees to reimburse a person for certain fees and costs under
43 certain circumstances; providing that certain persons may not avail themselves
44 of the remedies provided under this Act; requiring adults to provide proof of
45 lawful presence in the United States before receiving certain public benefits;
46 requiring State units and political subdivisions that provide certain public
47 benefits to verify the lawful presence of certain persons in the United States;
48 providing for certain exceptions; requiring certain applicants for certain public

1 benefits to produce certain types of identification; requiring certain applicants
2 for certain public benefits to execute a certain affidavit; authorizing a State unit
3 to adopt regulations regarding a certain waiver process or additional forms of
4 identification for certain adults applying for certain public benefits; prohibiting
5 State units or political subdivisions, after a certain date, from providing certain
6 public benefits to certain adults who are not lawfully present in the United
7 States; making it a misdemeanor to knowingly make a certain false, fictitious,
8 or fraudulent statement or affidavit; providing certain penalties; requiring State
9 units and political subdivisions to verify an applicant's lawful presence through
10 a certain federal program; allowing a certain affidavit to be presumed to be
11 proof of lawful presence under certain circumstances; authorizing State units
12 and political subdivisions to adopt certain modifications to certain requirements
13 under certain circumstances; requiring certain reports; establishing that a State
14 unit or political subdivision, except as provided in federal law, may not be
15 prohibited or restricted from sending, receiving, maintaining, or exchanging
16 information related to immigrant status with other federal agencies, State
17 units, or political subdivisions for certain reasons; altering a certain date until
18 which the Motor Vehicle Administration shall issue a certain temporary
19 identification card, moped operator's permit, or license to drive that is not
20 acceptable to federal agencies for certain official purposes; requiring the
21 Administration to notify by certified mail certain people who were issued a
22 certain temporary identification card, moped operator's permit, or license to
23 drive between certain dates of the new date by which the certain temporary
24 identification card, moped operator's permit, or license to drive will expire;
25 requiring the Administration to issue a certain substitute temporary
26 identification card, moped operator's permit, or license to drive that will expire
27 on the altered date; altering a certain date on which a certain temporary
28 identification card, moped operator's permit, or license to drive shall expire;
29 requiring local governments to comply with certain provisions of law in order to
30 receive certain aid from the State; defining certain terms; and generally relating
31 to immigrant aliens in Maryland.

32 BY adding to
33 Article – Correctional Services
34 Section 9–614
35 Annotated Code of Maryland
36 (2008 Replacement Volume and 2010 Supplement)

37 BY adding to
38 Article – Criminal Law
39 Section 9–901 through 9–904 to be under the new subtitle “Subtitle 9. Unlawful
40 Presence in the United States”
41 Annotated Code of Maryland
42 (2002 Volume and 2010 Supplement)

43 BY adding to
44 Article – Criminal Procedure
45 Section 2–108, 2–202(d), and 5–202(j)

1 Annotated Code of Maryland
2 (2008 Replacement Volume and 2010 Supplement)

3 BY adding to
4 Article – Public Safety
5 Section 3–508 and 3–509
6 Annotated Code of Maryland
7 (2003 Volume and 2010 Supplement)

8 BY adding to
9 Article – State Government
10 Section 8–502.1; and 10–1301 through 10–1308 to be under the new subtitle
11 “Subtitle 13. Proof of Lawful Presence to Receive Public Benefits”
12 Annotated Code of Maryland
13 (2009 Replacement Volume and 2010 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article – Transportation
16 Section 16–122(a)
17 Annotated Code of Maryland
18 (2009 Replacement Volume and 2010 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article 41 – Governor – Executive and Administrative Departments
21 Section 4–405
22 Annotated Code of Maryland
23 (2010 Replacement Volume)

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
25 MARYLAND, That the Laws of Maryland read as follows:

26 **Article – Correctional Services**

27 **9–614.**

28 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**
29 **MEANINGS INDICATED.**

30 **(2) “CENTRAL REPOSITORY” MEANS THE CRIMINAL JUSTICE**
31 **INFORMATION SYSTEM CENTRAL REPOSITORY IN THE DEPARTMENT.**

32 **(3) “CORRECTIONAL FACILITY” INCLUDES LOCAL**
33 **CORRECTIONAL FACILITIES AND CORRECTIONAL FACILITIES IN THE DIVISION**
34 **OF CORRECTION.**

1 **(4) “LAW ENFORCEMENT SUPPORT CENTER” MEANS THE LAW**
2 **ENFORCEMENT SUPPORT CENTER OF THE UNITED STATES IMMIGRATION AND**
3 **CUSTOMS ENFORCEMENT AGENCY.**

4 **(B) (1) THE MANAGING OFFICIAL OF A CORRECTIONAL FACILITY OR**
5 **THE MANAGING OFFICIAL’S DESIGNEE SHALL REQUIRE EACH INDIVIDUAL**
6 **COMMITTED TO THE CORRECTIONAL FACILITY TO PROVIDE INFORMATION AS TO**
7 **THE IMMIGRATION STATUS OF THE INDIVIDUAL.**

8 **(2) IF, BASED ON THE INFORMATION PROVIDED UNDER**
9 **PARAGRAPH (1) OF THIS SUBSECTION OR THE FAILURE TO PROVIDE**
10 **SATISFACTORY INFORMATION UNDER PARAGRAPH (1) OF THIS SUBSECTION, IT**
11 **IS DETERMINED THAT THE INDIVIDUAL IS UNLAWFULLY PRESENT IN THE**
12 **UNITED STATES, THE MANAGING OFFICIAL OR THE MANAGING OFFICIAL’S**
13 **DESIGNEE SHALL SEND AN IMMIGRATION ALIEN QUERY TO THE LAW**
14 **ENFORCEMENT SUPPORT CENTER FOR INFORMATION RELATING TO THE**
15 **INDIVIDUAL’S IMMIGRATION STATUS.**

16 **(3) IF THE RESULTS OF THE IMMIGRATION ALIEN QUERY**
17 **INDICATE THAT THE INDIVIDUAL IS UNLAWFULLY PRESENT IN THE UNITED**
18 **STATES, THE MANAGING OFFICIAL SHALL REPORT THAT FACT TO:**

19 **(I) THE CENTRAL REPOSITORY;**

20 **(II) THE DIVISION OF CORRECTION; AND**

21 **(III) THE DIVISION OF PAROLE AND PROBATION.**

22 **(C) THE DIVISION OF CORRECTION SHALL:**

23 **(1) MAINTAIN IN ITS OFFENDER MANAGEMENT SYSTEM, A**
24 **SPECIFIC DATA FIELD FOR THE ENTRY OF REPORTS RECEIVED UNDER**
25 **SUBSECTION (B)(3) OF THIS SECTION REGARDING INDIVIDUALS COMMITTED TO**
26 **A CORRECTIONAL FACILITY WHO ARE UNLAWFULLY PRESENT IN THE UNITED**
27 **STATES; AND**

28 **(2) ASSIST THE UNITED STATES IMMIGRATION AND CUSTOMS**
29 **ENFORCEMENT AGENCY WITH INFORMATION LEADING TO THE DEPORTATION**
30 **OF INDIVIDUALS COMMITTED TO A CORRECTIONAL FACILITY WHO ARE**
31 **UNLAWFULLY PRESENT IN THE UNITED STATES.**

32 **(D) THE DIVISION OF PAROLE AND PROBATION SHALL:**

1 (C) A PERSON WHO IS CONVICTED AND SENTENCED UNDER THIS
2 SECTION:

3 (1) IS NOT ELIGIBLE FOR SUSPENSION OF SENTENCE, PROBATION
4 BEFORE JUDGMENT UNDER § 6-220 OF THE CRIMINAL PROCEDURE ARTICLE,
5 PARDON, OR RELEASE FROM CONFINEMENT ON ANY BASIS UNTIL THE
6 SENTENCE IMPOSED BY THE COURT IS SERVED; AND

7 (2) SHALL PAY THE COSTS OF CONFINEMENT AS PROVIDED BY
8 LAW.

9 9-902.

10 (A) A PERSON WHO DOES NOT HAVE LAWFUL PRESENCE IN THE UNITED
11 STATES MAY NOT:

12 (1) KNOWINGLY APPLY FOR WORK;

13 (2) SOLICIT WORK IN A PUBLIC LOCATION BY USING VERBAL OR
14 NONVERBAL COMMUNICATION THAT WOULD INDICATE TO A REASONABLE
15 PERSON THAT A PERSON IS WILLING TO BE EMPLOYED; OR

16 (3) PERFORM WORK AS AN EMPLOYEE OR INDEPENDENT
17 CONTRACTOR IN THE STATE.

18 (B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A
19 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT
20 EXCEEDING 30 DAYS OR A FINE NOT EXCEEDING \$100 OR BOTH.

21 9-903.

22 (A) IN THE ENFORCEMENT OF THE PROVISIONS OF THIS SUBTITLE, AN
23 ALIEN'S IMMIGRATION STATUS MAY BE DETERMINED BY:

24 (1) A LAW ENFORCEMENT OFFICER WHO IS AUTHORIZED BY THE
25 FEDERAL GOVERNMENT TO VERIFY OR ASCERTAIN AN ALIEN'S IMMIGRATION
26 STATUS; OR

27 (2) THE UNITED STATES IMMIGRATION AND CUSTOMS
28 ENFORCEMENT AGENCY OF THE UNITED STATES DEPARTMENT OF HOMELAND
29 SECURITY.

30 (B) A LAW ENFORCEMENT OFFICER MAY NOT CONSIDER RACE, COLOR,
31 OR NATIONAL ORIGIN IN ENFORCING PROVISIONS OF THIS SUBTITLE EXCEPT TO

1 THE EXTENT AUTHORIZED BY THE UNITED STATES CONSTITUTION AND THE
2 MARYLAND CONSTITUTION.

3 (C) IN A PROSECUTION UNDER A PROVISION OF THIS SUBTITLE, ANY
4 RECORD THAT RELATES TO THE IMMIGRATION STATUS OF A PERSON IS
5 ADMISSIBLE IN ANY COURT WITHOUT FURTHER FOUNDATION OR TESTIMONY
6 FROM CUSTODIAN RECORDS IF THE RECORD IS CERTIFIED AS AUTHENTIC BY
7 THE GOVERNMENT AGENCY RESPONSIBLE FOR MAINTAINING THE RECORD.

8 9-904.

9 THIS SUBTITLE DOES NOT APPLY TO A PERSON WHO MAINTAINS
10 AUTHORIZATION FROM THE FEDERAL GOVERNMENT TO REMAIN IN THE UNITED
11 STATES.

12 Article – Criminal Procedure

13 2-108.

14 (A) A POLICE OFFICER WHO ENCOUNTERS AND DETAINS IN THE
15 NORMAL COURSE OF THE OFFICER'S DUTIES AN INDIVIDUAL WHO THE POLICE
16 OFFICER DETERMINES IS AN UNDOCUMENTED ALIEN SHALL INFORM THE
17 UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT AGENCY OF THE
18 UNITED STATES DEPARTMENT OF HOMELAND SECURITY OF THE DETENTION
19 AS SOON AS POSSIBLE AFTER THE POLICE OFFICER HAS DETAINED THE
20 UNDOCUMENTED ALIEN.

21 (B) A POLICE OFFICER MAY NOT CONSIDER RACE, COLOR, OR NATIONAL
22 ORIGIN IN IMPLEMENTING THE REQUIREMENTS OF SUBSECTION (A) OF THIS
23 SECTION EXCEPT TO THE EXTENT AUTHORIZED BY THE UNITED STATES
24 CONSTITUTION AND THE MARYLAND CONSTITUTION.

25 (C) SUBSECTION (A) OF THIS SECTION DOES NOT REQUIRE A POLICE
26 OFFICER TO SEARCH FOR AN INDIVIDUAL FOR THE SOLE PURPOSE OF
27 DETAINING AN UNDOCUMENTED ALIEN.

28 2-202.

29 (D) NOTWITHSTANDING ANY OTHER LAW, A POLICE OFFICER MAY
30 ARREST WITHOUT A WARRANT A PERSON WHO COMMITS A FELONY OR
31 MISDEMEANOR IN PUBLIC THAT MAKES THE PERSON REMOVABLE FROM THE
32 UNITED STATES.

33 5-202.

1 **(B) ALL OFFICIALS, PERSONNEL, AND AGENTS OF A LOCAL**
2 **GOVERNMENT SHALL FULLY COMPLY WITH AND SUPPORT THE ENFORCEMENT**
3 **OF FEDERAL LAW PROHIBITING THE ENTRY INTO OR PRESENCE OR RESIDENCE**
4 **IN THE UNITED STATE OF ILLEGAL ALIENS IN VIOLATION OF FEDERAL**
5 **IMMIGRATION LAW.**

6 **(C) A LOCAL GOVERNMENT MAY NOT RESTRICT ITS OFFICIALS,**
7 **PERSONNEL, OR AGENTS FROM REQUESTING, OBTAINING, SENDING, RECEIVING,**
8 **EXCHANGING, OR MAINTAINING INFORMATION REGARDING THE IMMIGRATION**
9 **STATUS OF AN INDIVIDUAL.**

10 **(D) A LOCAL GOVERNMENT SHALL IMPLEMENT THE REQUIREMENTS**
11 **AND OBLIGATIONS OF THIS SECTION IN A MANNER THAT:**

12 **(1) IS FULLY CONSISTENT WITH FEDERAL LAW REGULATING**
13 **IMMIGRATION; AND**

14 **(2) PROTECTS THE CIVIL RIGHTS OF ALL U.S. CITIZENS AND**
15 **ALIENS.**

16 **(E) A LOCAL GOVERNMENT MAY NOT CONSTRUE THIS SECTION TO**
17 **PROHIBIT ITS OFFICIALS, PERSONNEL, OR AGENTS FROM:**

18 **(1) RENDERING EMERGENCY CARE OR ANY OTHER PUBLIC**
19 **BENEFIT MANDATED BY FEDERAL OR STATE LAW; OR**

20 **(2) REPORTING CRIMINAL ACTIVITY TO A LAW ENFORCEMENT**
21 **AGENCY.**

22 **Article – State Government**

23 **8-502.1.**

24 **(A) THIS SECTION APPLIES TO:**

25 **(1) A CIVIL OFFICER OR EMPLOYEE OF A UNIT OF STATE**
26 **GOVERNMENT OR OF A POLITICAL SUBDIVISION OF THE STATE; AND**

27 **(2) AN ELECTED OR APPOINTED OFFICER OF THE STATE SUBJECT**
28 **TO IMPEACHMENT UNDER THE MARYLAND CONSTITUTION.**

29 **(B) A REGISTERED VOTER UNDER THE LAWS OF THIS STATE MAY:**

1 **(1) FILE A COMPLAINT FOR DECLARATORY JUDGMENT AND**
2 **INJUNCTIVE RELIEF UNDER § 3-408.2 OF THE COURTS ARTICLE AGAINST AN**
3 **OFFICER OR EMPLOYEE SUBJECT TO THIS SECTION ALLEGING THAT THE**
4 **OFFICER OR EMPLOYEE:**

5 **(I) HAS ACTED OR DIRECTED THE ACTIONS OF ANOTHER**
6 **PERSON IN THE STATE IN A MANNER THAT VIOLATES, CONFLICTS WITH, OR IS**
7 **OTHERWISE PREEMPTED BY THE IMMIGRATION LAWS OF THE UNITED STATES;**

8 **(II) HAS AUTHORIZED A PERSON OTHER THAN A CITIZEN OF**
9 **THE UNITED STATES TO VOTE IN A FEDERAL, STATE, OR LOCAL ELECTION**
10 **REQUIRED TO BE CONDUCTED IN ACCORDANCE WITH THE ELECTION LAW**
11 **ARTICLE; OR**

12 **(III) HAS ACTED OR DIRECTED THE ACTIONS OF ANY PERSON**
13 **IN THE STATE IN A MANNER THAT INFRINGES ON OR RESTRICTS IN ANY MANNER**
14 **A PRIVILEGE OR IMMUNITY OF A CITIZEN OF THE UNITED STATES DOMICILED**
15 **IN THIS STATE; AND**

16 **(2) REQUEST THAT ON A FINDING OF A VIOLATION OF**
17 **PARAGRAPH (1) OF THIS SUBSECTION, THE COURT DECLARE THAT:**

18 **(I) AS TO A CIVIL OFFICER OR EMPLOYEE, THE OFFICER OR**
19 **EMPLOYEE IS SUBJECT TO THE SUSPENSION AND REMOVAL SANCTIONS**
20 **PRESCRIBED UNDER § 8-502(A) OF THIS SUBTITLE; OR**

21 **(II) AS TO AN ELECTED OR APPOINTED OFFICER SUBJECT**
22 **TO IMPEACHMENT UNDER THE MARYLAND CONSTITUTION, THE OFFICER BE**
23 **REFERRED TO THE GENERAL ASSEMBLY FOR IMPEACHMENT.**

24 **(C) A PERSON HAS STANDING TO FILE A COMPLAINT UNDER THIS**
25 **SECTION AGAINST AN OFFICER OR EMPLOYEE SUBJECT TO THIS SECTION ONLY**
26 **AFTER THE PERSON EXHAUSTS ALL ADMINISTRATIVE REMEDIES AVAILABLE BY**
27 **LAW OR REGULATION TO THE PERSON.**

28 **(D) IF THE COURT DETERMINES THAT AN OFFICER OR EMPLOYEE**
29 **AGAINST WHOM A COMPLAINT IS FILED HAS ENGAGED IN A PATTERN OR**
30 **PRACTICE OF ACTS OF THE TYPE FOR WHICH DECLARATORY AND INJUNCTIVE**
31 **RELIEF IS SOUGHT UNDER THIS SECTION, THE COURT MAY DIRECT THAT THE**
32 **OFFICER OR EMPLOYEE PROVIDE THE COMPLAINANT REIMBURSEMENT FOR**
33 **REASONABLE ATTORNEY'S FEES AND COSTS.**

34 **(E) AN ACTION FOR AN EQUITABLE REMEDY FOR DECLARATORY**
35 **JUDGMENT AND INJUNCTIVE RELIEF AS PRESCRIBED UNDER THIS SECTION IS**

1 NOT AVAILABLE TO A PERSON WHO IS NOT A CITIZEN OF THE UNITED STATES
2 OR A LEGAL PERMANENT RESIDENT ALIEN IN THE UNITED STATES.

3 **SUBTITLE 13. PROOF OF LAWFUL PRESENCE TO RECEIVE PUBLIC BENEFITS.**

4 **10-1301.**

5 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
6 INDICATED.

7 (B) "EMERGENCY MEDICAL CONDITION" HAS THE MEANING STATED IN
8 42 U.S.C. § 1396B(v)(3).

9 (C) "FEDERAL PUBLIC BENEFITS" HAS THE MEANING STATED IN 8
10 U.S.C. § 1611.

11 (D) "POLITICAL SUBDIVISION" MEANS A COUNTY OR MUNICIPAL
12 CORPORATION IN THE STATE.

13 (E) "SAVE PROGRAM" MEANS THE FEDERAL SYSTEMATIC ALIEN
14 VERIFICATION OF ENTITLEMENT PROGRAM OPERATED BY THE UNITED STATES
15 DEPARTMENT OF HOMELAND SECURITY.

16 (F) "STATE OR LOCAL PUBLIC BENEFITS" HAS THE MEANING STATED IN
17 8 U.S.C. § 1621.

18 (G) "STATE UNIT" MEANS A PRINCIPAL DEPARTMENT, OFFICE,
19 COMMISSION, COUNCIL, OR OTHER UNIT IN THE EXECUTIVE BRANCH OF STATE
20 GOVERNMENT.

21 **10-1302.**

22 IT IS THE POLICY OF THE STATE THAT ALL ADULTS SHALL PROVIDE
23 PROOF THAT THEY ARE LAWFULLY PRESENT IN THE UNITED STATES BEFORE
24 RECEIVING PUBLIC BENEFITS IN THE STATE.

25 **10-1303.**

26 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION OR AS
27 EXEMPTED BY FEDERAL LAW, EACH STATE UNIT AND EACH POLITICAL
28 SUBDIVISION OF THE STATE SHALL VERIFY THE LAWFUL PRESENCE IN THE
29 UNITED STATES OF EACH ADULT WHO APPLIES FOR FEDERAL PUBLIC BENEFITS
30 OR STATE OR LOCAL PUBLIC BENEFITS.

1 **(B) VERIFICATION OF LAWFUL PRESENCE UNDER SUBSECTION (A) OF**
2 **THIS SECTION IS NOT REQUIRED FOR:**

3 **(1) ANY PURPOSE FOR WHICH LAWFUL PRESENCE IN THE UNITED**
4 **STATES IS NOT REQUIRED BY LAW, ORDINANCE, OR RULE;**

5 **(2) ANY HEALTH CARE SERVICES OR ITEMS NECESSARY TO TREAT**
6 **A PERSON'S EMERGENCY MEDICAL CONDITION AND THAT ARE NOT RELATED TO**
7 **AN ORGAN TRANSPLANT PROCEDURE;**

8 **(3) PRENATAL CARE;**

9 **(4) SHORT-TERM, NONCASH, IN-KIND EMERGENCY DISASTER**
10 **RELIEF;**

11 **(5) PUBLIC HEALTH ASSISTANCE FOR IMMUNIZATIONS AND**
12 **TREATING COMMUNICABLE DISEASE SYMPTOMS REGARDLESS OF WHETHER THE**
13 **SYMPTOMS ARE CAUSED BY A COMMUNICABLE DISEASE; AND**

14 **(6) PROGRAMS, SERVICES, OR ASSISTANCE, INCLUDING FOOD**
15 **AND MEAL PROVIDING FACILITIES, CRISIS COUNSELING AND INTERVENTION**
16 **PROGRAMS, AND SHORT-TERM SHELTER, SPECIFIED BY FEDERAL LAW OR**
17 **REGULATION THAT:**

18 **(I) DELIVER IN-KIND SERVICES AT THE COMMUNITY**
19 **LEVEL, INCLUDING SERVICES THROUGH PUBLIC OR PRIVATE NONPROFIT**
20 **AGENCIES;**

21 **(II) DO NOT CONDITION THE PROVISION, AMOUNT, OR COST**
22 **OF ASSISTANCE PROVIDED BASED ON THE PERSON'S INCOME OR RESOURCES;**
23 **AND**

24 **(III) ARE NECESSARY FOR THE PROTECTION OF LIFE OR**
25 **SAFETY.**

26 **(C) EACH APPLICANT FOR FEDERAL PUBLIC BENEFITS OR STATE OR**
27 **LOCAL PUBLIC BENEFITS SHALL BE REQUIRED TO:**

28 **(1) PRODUCE:**

29 **(I) A VALID MARYLAND DRIVER'S LICENSE OR**
30 **IDENTIFICATION CARD ISSUED BY THE MOTOR VEHICLE ADMINISTRATION;**

1 (II) A UNITED STATES MILITARY CARD OR MILITARY
2 DEPENDENT'S IDENTIFICATION CARD;

3 (III) A UNITED STATES MERCHANT MARINE CARD; OR

4 (IV) A NATIVE AMERICAN TRIBAL DOCUMENT; AND

5 (2) EXECUTE AN AFFIDAVIT STATING THAT THE PERSON IS:

6 (I) A UNITED STATES CITIZEN OR LEGAL PERMANENT
7 RESIDENT; OR

8 (II) OTHERWISE LAWFULLY PRESENT IN THE UNITED
9 STATES UNDER FEDERAL LAW.

10 (D) NOTWITHSTANDING SUBSECTION (C)(1) OF THIS SECTION, A STATE
11 UNIT MAY ADOPT REGULATIONS AUTHORIZING THE USE OF ADDITIONAL FORMS
12 OF IDENTIFICATION OR A WAIVER PROCESS TO ENSURE THE LAWFUL PRESENCE
13 IN THE UNITED STATES OF ADULTS WHO ARE APPLYING FOR FEDERAL PUBLIC
14 BENEFITS OR STATE OR LOCAL PUBLIC BENEFITS.

15 **10-1304.**

16 (A) AS OF JANUARY 1, 2012, A STATE UNIT OR POLITICAL SUBDIVISION
17 MAY NOT PROVIDE FEDERAL PUBLIC BENEFITS OR STATE OR LOCAL PUBLIC
18 BENEFITS TO AN ADULT WHO IS NOT LAWFULLY PRESENT IN THE UNITED
19 STATES.

20 (B) (1) A PERSON WHO KNOWINGLY MAKES A FALSE, FICTITIOUS, OR
21 FRAUDULENT STATEMENT OR AFFIDAVIT UNDER § 10-1303(C) OF THIS
22 SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO
23 IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE OF NOT MORE THAN \$1,000
24 OR BOTH.

25 (2) EACH RECEIPT OF A PUBLIC BENEFIT CONSTITUTES A
26 SEPARATE VIOLATION UNDER THIS SUBSECTION.

27 **10-1305.**

28 (A) FOR EACH APPLICANT WHO EXECUTES AN AFFIDAVIT UNDER §
29 10-1303(C)(2) OF THIS SUBTITLE, A STATE UNIT OR POLITICAL SUBDIVISION
30 SHALL VERIFY THE LAWFUL PRESENCE OF THE APPLICANT THROUGH THE
31 SAVE PROGRAM OR ANY SUCCESSOR PROGRAM DESIGNATED BY THE UNITED
32 STATES DEPARTMENT OF HOMELAND SECURITY.

1 **(B) UNTIL COMPLETION OF THE VERIFICATION OF LAWFUL PRESENCE**
2 **UNDER SUBSECTION (A) OF THIS SECTION, THE APPLICANT'S AFFIDAVIT MAY BE**
3 **PRESUMED TO BE PROOF OF LAWFUL PRESENCE FOR PURPOSES OF THIS**
4 **SECTION.**

5 **10-1306.**

6 **(A) A STATE UNIT OR A POLITICAL SUBDIVISION MAY ADOPT**
7 **MODIFICATIONS TO THE REQUIREMENTS OF § 10-1303(C) OF THIS SUBTITLE TO:**

8 **(1) IMPROVE EFFICIENCY OR REDUCE DELAYS IN THE**
9 **VERIFICATION PROCESS; OR**

10 **(2) PROVIDE FOR THE ADJUDICATION OF UNIQUE INDIVIDUAL**
11 **CIRCUMSTANCES IN WHICH THE VERIFICATION REQUIREMENTS UNDER THIS**
12 **SUBTITLE WOULD IMPOSE AN UNDUE HARDSHIP ON A LEGAL RESIDENT OF THE**
13 **STATE.**

14 **(B) ANY MODIFICATION TO A REQUIREMENT ADOPTED UNDER THIS**
15 **SECTION SHALL BE AT LEAST AS STRINGENT AS THE REQUIREMENTS OF §**
16 **10-1303 OF THIS SUBTITLE.**

17 **10-1307.**

18 **EACH STATE UNIT THAT PROVIDES FEDERAL PUBLIC BENEFITS OR STATE**
19 **OR LOCAL PUBLIC BENEFITS SHALL:**

20 **(1) REPORT ANNUALLY TO THE GOVERNOR AND, IN ACCORDANCE**
21 **WITH § 2-1246 OF THIS ARTICLE, THE GENERAL ASSEMBLY ON ITS**
22 **COMPLIANCE WITH THE REQUIREMENTS OF THIS SUBTITLE; AND**

23 **(2) REPORT ERRORS AND SIGNIFICANT DELAYS BY THE SAVE**
24 **PROGRAM TO THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY.**

25 **10-1308.**

26 **EXCEPT AS PROVIDED IN FEDERAL LAW, A STATE UNIT OR POLITICAL**
27 **SUBDIVISION MAY NOT BE PROHIBITED FROM OR IN ANY WAY RESTRICTED**
28 **FROM SENDING, RECEIVING, OR MAINTAINING INFORMATION RELATED TO THE**
29 **IMMIGRANT STATUS OF ANY PERSON OR FROM EXCHANGING THAT**
30 **INFORMATION WITH ANY OTHER FEDERAL AGENCY, STATE UNIT, OR POLITICAL**
31 **SUBDIVISION IN ORDER TO:**

1 (2) The Administration may not issue or renew an identification card,
2 moped operator's permit, or license to drive under paragraph [(a)(1)(ii)] **(1)(II)** of this
3 subsection on or after [July 1, 2015] **JANUARY 1, 2012**.

4 (3) **(I) 1. BY CERTIFIED MAIL, THE ADMINISTRATION**
5 **SHALL NOTIFY EACH HOLDER OF AN IDENTIFICATION CARD, MOPED**
6 **OPERATOR'S PERMIT, OR LICENSE TO DRIVE ISSUED OR RENEWED UNDER**
7 **PARAGRAPH (1)(II) OF THIS SUBSECTION BETWEEN JULY 1, 2010, THROUGH**
8 **OCTOBER 1, 2011, OF THE REQUIREMENTS OF PARAGRAPH (2) OF THIS**
9 **SUBSECTION AND THIS PARAGRAPH.**

10 **2. IN ITS NOTIFICATION UNDER SUBSUBPARAGRAPH**
11 **1 OF THIS SUBPARAGRAPH, THE ADMINISTRATION SHALL REQUIRE EACH**
12 **HOLDER OF AN IDENTIFICATION CARD, MOPED OPERATOR'S PERMIT, OR**
13 **LICENSE TO DRIVE ISSUED OR RENEWED UNDER PARAGRAPH (1)(II) OF THIS**
14 **SUBSECTION FROM JULY 1, 2010, UNTIL OCTOBER 1, 2011, TO APPEAR AT AN**
15 **ADMINISTRATION OFFICE TO RECEIVE A SUBSTITUTE IDENTIFICATION CARD,**
16 **MOPED OPERATOR'S PERMIT, OR LICENSE TO DRIVE THAT WILL EXPIRE ON**
17 **JANUARY 1, 2012.**

18 **(II)** An identification card, moped operator's permit, or license to
19 drive issued or renewed under paragraph [(a)(1)(ii)] **(1)(II)** of this subsection on or
20 after [July 1, 2010, shall expire on July 1, 2015] **OCTOBER 1, 2011, SHALL EXPIRE**
21 **ON JANUARY 1, 2012.**

22 (4) This subsection does not apply to any provision of law applicable to
23 the issuance or renewal of a commercial driver's license under this title.

24 **Article 41 – Governor – Executive and Administrative Departments**

25 4–405.

26 (a) If the executive director finds that a county is not complying with the
27 maintenance of effort provisions of § 4–402 of this subtitle[,] **OR THAT A COUNTY OR**
28 **MUNICIPAL CORPORATION IS NOT COMPLYING WITH THE PROVISIONS OF §**
29 **3–509 OF THE PUBLIC SAFETY ARTICLE**, the executive director shall notify the
30 subdivision or qualifying municipality of such noncompliance.

31 (b) If a subdivision or qualifying municipality disputes the finding within 30
32 days of the issuance of such notice, the dispute shall be promptly referred to the
33 Secretary of the Department of Budget and Management, who shall make a final
34 determination.

35 (c) Upon receipt of certification of noncompliance by the executive director or
36 the Secretary of the Department of Budget and Management, as the case may be, the

1 Comptroller shall suspend, until notification of compliance is received, payment of any
2 funds due the subdivision or qualifying municipality for the current fiscal year, as
3 provided in § 4-403 of this subtitle, to the extent that the State's aid due the
4 subdivision or qualifying municipality in the current fiscal year under that section
5 exceeds the amount which the subdivision or qualifying municipality received in the
6 prior fiscal year.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2011.